



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2005 REGULAR SESSION

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HOUSE BILL NO. 225

AS ENACTED

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TUESDAY, MARCH 8, 2005

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

AN ACT relating to gas.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1       SECTION 1.   A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
2   READ AS FOLLOWS:

3   *As used in Sections 1 to 14 of this Act, unless the context requires otherwise:*

4   *(1) "Agreement" means a written contract between the authority and any person or*  
5       *persons, firm, corporation, local government, or public entity providing for or*  
6       *relating to the financing of the construction, reconstruction, improvement, or*  
7       *repair of one (1) or more projects of the authority;*

8   *(2) "Authority" means the Kentucky Gas Pipeline Authority created by Section 2 of*  
9       *this Act;*

10   *(3) "Bonds" mean revenue bonds, notes, or other obligations issued under the*  
11       *provisions of Section 4, 5, or 10 of this Act;*

12   *(4) "Cost" means the expenditures for construction, acquisition, financing charges,*  
13       *interest prior to and during construction, principal and interest on any bonds or*  
14       *notes or obligations issued by the authority, engineering and legal expenses,*  
15       *plans, specifications, cost and revenue estimates, other expenses necessary or*  
16       *incidental to determining the feasibility or practicability of constructing any*  
17       *project, administrative expenses, and such other expenses necessary or incident*  
18       *to the construction of and placing into operation a project, the financing of the*  
19       *construction, and the acquisition of the project;*

20   *(5) "Project" means the construction, reconstruction, improvement, or repair of any*  
21       *gas pipeline or appurtenant facilities, together with all property, rights,*  
22       *easements, and interests which may be acquired by the authority to facilitate the*  
23       *construction, reconstruction, improvement, or repair of any gas pipeline or*  
24       *appurtenant facilities. Except for projects involving repair or replacement,*  
25       *projects shall be limited to areas where no gas pipelines exist or where existing*

1 lines have insufficient capacity to transport Kentucky gases to market; and  
 2 (6) "Gas" means natural gas, coalbed or other methane gas, or any elements of  
 3 natural gas or other gas.

4 SECTION 2. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 5 READ AS FOLLOWS:

6 (1) There is created and established within the Finance and Administration Cabinet  
 7 a Kentucky Gas Pipeline Authority composed of the following nine (9) members:

8 (a) The secretary of the Finance and Administration Cabinet or his or her  
 9 designee;

10 (b) The secretary of the Tourism Development Cabinet or his or her designee;

11 (c) The secretary of the Natural Resources and Environmental Protection  
 12 Cabinet or his or her designee;

13 (d) A member designated by the Kentucky Oil and Gas Association;

14 (e) A member designated by the Kentucky Society of Professional Engineers  
 15 who shall have experience in oil and gas pipeline construction;

16 (f) A member designated by the Kentucky Gas Association representing a  
 17 natural gas distribution company with a minimum annual throughput of  
 18 ten billion (10,000,000,000) cubic feet;

19 (g) A citizen member appointed by the Governor; and

20 (h) Two (2) nonvoting legislator members, one (1) appointed by the President of  
 21 the Senate and one (1) by the Speaker of the House of Representatives.

22 (2) Members described in paragraphs (d), (e), (f), and (g) of subsection (1) of this  
 23 section shall begin their terms on August 1, 2005. The initial terms of the  
 24 members described in paragraphs (d) and (e) shall be two (2) years. The initial  
 25 terms of the members described in paragraphs (f) and (g) shall be three (3) years  
 26 and four (4) years, respectively. All subsequent terms for those members shall be  
 27 four (4) years.

- 1 (3) Vacancies occurring during the term of any member shall be filled in the same  
2 manner as the original appointment.
- 3 (4) The nine (9) members of the authority and their successors shall be a body  
4 corporate and politic, with perpetual succession, constituting a public corporation  
5 and a governmental agency and instrumentality of the Commonwealth. The  
6 authority shall have the power, in its corporate name, to contract and be  
7 contracted with, acquire and convey property, sue and be sued, have and use a  
8 corporate seal, and exercise all of the usual powers of corporations not  
9 inconsistent with the authority's specifically enumerated powers.
- 10 (5) The members of the authority shall receive no compensation for their services,  
11 but shall be entitled to reimbursement for their actual and necessary expenses  
12 incurred in the performance of their duties under Sections 1 to 14 of this Act.
- 13 (6) The secretary of the Finance and Administration Cabinet shall serve as chair,  
14 and the members of the authority shall elect a vice chair from their membership  
15 and appoint a secretary.
- 16 (7) The secretary of the Finance and Administration Cabinet shall designate an  
17 employee of his or her cabinet to serve as treasurer of the authority. The  
18 treasurer shall give bond to the authority for a faithful accounting for all funds  
19 coming into his or her custody, in the amount the authority may prescribe, drawn  
20 upon a surety company qualified to do business in the Commonwealth. The  
21 premium shall be paid by the Commonwealth.
- 22 (8) The authority shall establish and maintain an office and keep accurate and  
23 complete records of the authority's actions and proceedings, which shall be  
24 available for public inspection in accordance with KRS 61.870 to 61.884. The  
25 Finance and Administration Cabinet shall provide the funds, staff, facilities, and  
26 materials required by the authority in the conduct of its duties and functions.

27 SECTION 3. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO

1 READ AS FOLLOWS:

- 2 (1) If any officers of the authority whose signature, or a facsimile thereof, appears  
3 on any bonds of the authority or on any other instruments or documents  
4 pertaining to the functions of the authority ceases to be an officer before delivery  
5 of the bonds, or before the effective date or occasion of the instruments or  
6 documents, the signature or facsimile shall nevertheless be valid for all purposes  
7 the same as if the officer had remained in office until the delivery or effective  
8 date or occasion.
- 9 (2) Any four (4) voting members of the authority shall constitute a quorum.
- 10 (3) The authority shall meet not less than every twelve (12) months beginning no  
11 later than ninety (90) days after the effective date of this Act, and at such other  
12 times as it may be called as provided in this section. Special meetings of the  
13 authority may be called by the chair and, upon written request of two (2)  
14 members, the chair shall call a special meeting of the authority to be held not  
15 later than twenty (20) days following receipt of the written request. The chair  
16 shall give notice through the secretary by any means agreed upon by the  
17 membership, at least ten (10) days prior to the time of any meeting. The offices of  
18 the authority shall be located in Frankfort, Kentucky.
- 19 (4) The authority may adopt bylaws relating to its organization and internal  
20 management and alter them at will. Through its bylaws, or by resolution, it shall  
21 establish stated times and places for regular meetings and may provide for  
22 meetings at other times or in different places. If a quorum is present at any  
23 special meeting and it appears from the minutes that reasonable notice was given  
24 to or waived by absent members, or if the minutes are subsequently consented to  
25 by absent members, any business transacted or action taken at the meeting shall  
26 be official and as valid in all respects as if transacted or taken at a regular  
27 meeting.

1 (5) The authority shall promulgate administrative regulations for the conducting of  
 2 its business and affairs including criteria for project eligibility, in accordance  
 3 with the provisions of KRS Chapter 13A.

4 SECTION 4. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 5 READ AS FOLLOWS:

6 The primary purpose of the authority shall be to provide a financing mechanism for  
 7 projects, as defined in subsection (5) of Section 1 of this Act, that will increase  
 8 severance tax revenue for Kentucky, create jobs for Kentuckians, and create a  
 9 competitive advantage in environmentally responsible energy development. In doing  
 10 so, the authority may:

11 (1) Determine the number and location of projects, in order to prevent duplication of  
 12 effort and unnecessary costs, and study the needs within the natural gas, coalbed  
 13 methane gas, and other gas product industries regarding storage, gathering, and  
 14 transportation;

15 (2) Facilitate the construction, reconstruction, improvement or repair of any gas  
 16 transmission pipeline and appurtenant facilities in this state;

17 (3) Acquire and convey real estate and any improvements, buildings, and facilities  
 18 located thereon for which a project is undertaken, in the manner and under the  
 19 terms as may be set forth in the agreement;

20 (4) Issue revenue bonds, and revenue bond anticipation notes of the authority  
 21 payable solely from the revenues, rentals, and other funds pledged for their  
 22 payment, for the purpose of paying any part of the cost of any one (1) or more  
 23 projects and refunding any bonds;

24 (5) Grant, convey, assign, or lease any easement or rights of way that are acquired,  
 25 owned, or leased by the authority and related to a project;

26 (6) Employ consulting engineers, attorneys, accountants, construction and financial  
 27 experts, managers, and other employees and agents who, in the judgment of the

- 1 authority, are necessary and fix their compensation;
- 2 (7) Enter into contracts with parties that are necessary and incidental to the  
 3 performance of its duties and execution of its powers under Sections 1 to 14 of  
 4 this Act;
- 5 (8) Establish and enforce rules and specifications regarding any project undertaken  
 6 by the authority, except during any period when the powers are assigned to a  
 7 lessee pursuant to a lease agreement. The rules and specifications shall be  
 8 consistent with federal and state laws and regulations pertaining to gas pipelines;
- 9 (9) Receive, accept, and expend funds or other contributions from any source, both  
 10 public and private, for or in aid of any project undertaken by the authority;
- 11 (10) Create and establish a debt service reserve pursuant to proceedings and trust  
 12 indenture of the authority; and
- 13 (11) Do all things and perform all acts desirable, necessary, and proper to carry out  
 14 the powers expressly granted to the authority by Sections 1 to 14 of this Act,  
 15 including recommending the promulgation of administrative regulations and  
 16 enactment of legislation.

17 SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 18 READ AS FOLLOWS:

- 19 (1) The authority may provide for the issuance of revenue bonds to pay any part of  
 20 the cost of any projects undertaken pursuant to an agreement. The principal and  
 21 interest on these bonds shall be payable solely from the funds provided for such  
 22 payment. Any issue may be in one (1) or more series and any series may enjoy  
 23 equal or subordinate status with respect to the pledge of funds from which they  
 24 are payable, shall be dated, shall bear interest at such rate or rates as established  
 25 by the authority, shall mature at a time or times not exceeding twenty (20) years  
 26 from their date or dates, all as may be provided by the authority, and may be  
 27 made redeemable before maturity, at the option of the authority, at the price or

1 prices and under the terms and conditions as may be fixed by the authority prior  
2 to the issuance of the bonds. The authority shall determine the form of the bonds  
3 and fix the denomination of the bonds and the place or places for payment of  
4 principal and interest, which may be at any bank or trust company within or  
5 without this Commonwealth or at the office of the Finance and Administration  
6 Cabinet. The bonds shall be signed by the facsimile signature of the chair or  
7 secretary of the authority, and the seal of the authority or a facsimile thereof  
8 shall be affixed thereto and attested by the manual or facsimile signature of the  
9 secretary or chair of the authority. All bonds issued under the provisions of  
10 Sections 1 to 14 of this Act shall have all the qualities and incidents of negotiable  
11 instruments under the Uniform Commercial Code, KRS Chapter 355. The  
12 authority may sell bonds at public or private sale.

13 (2) The proceeds of the bonds of each issue shall be used solely for the payment of  
14 the cost of the project or projects for which the bonds are issued, and shall be  
15 disbursed in the manner and under any restrictions as the authority may provide  
16 in the proceedings authorizing the issuance of the bonds or in the trust indenture  
17 securing the same. If the proceeds of the bonds of any issue, by error of estimates  
18 or otherwise, is less than the cost, additional bonds may be issued in like manner  
19 to provide the amount of the deficit and, unless otherwise provided in the  
20 proceedings authorizing the issuance of the bonds or in the trust indenture  
21 securing the same, shall be deemed to be of the same issue and entitled to  
22 payment from the same fund without preference or priority of the bonds first  
23 issued. If the proceeds of the bonds of any issue exceed the cost, the surplus shall  
24 be deposited to the credit of the sinking fund or funds for these bonds or any  
25 account or accounts therein as the authority shall provide in the proceedings or  
26 trust indenture authorizing and securing the bonds.

27 (3) Prior to the preparation of definitive bonds, the authority may, under like



1       restrictions, issue notes or temporary bonds that shall be exchangeable for  
 2       definitive bonds when the definitive bonds are executed and available for delivery.

3       SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 4       READ AS FOLLOWS:

5       Bonds issued by the authority under Sections 1 to 14 of this Act shall not constitute a  
 6       debt of this Commonwealth or any political subdivision thereof or a pledge of the faith  
 7       and credit of the Commonwealth or any political subdivision. The bonds shall be  
 8       payable solely from the funds and security provided for payment under Sections 1 to 14  
 9       of this Act, and each bond shall contain a statement to that effect on its face.

10       SECTION 7. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 11       READ AS FOLLOWS:

12       In the discretion of the authority, any bonds issued under Sections 1 to 14 of this Act  
 13       may be secured by a trust indenture or trust indentures by and between the authority  
 14       and a corporate trustee, which may be any trust company or bank having the powers of  
 15       a trust company in or outside of Kentucky. The trust indenture or the proceedings  
 16       providing for the issuance of the bonds may:

17       (1) Pledge or assign the rents and other revenues to be received from a particular  
 18       series of bonds as it relates to a trust indenture;

19       (2) Contain provisions for protecting and enforcing the rights and remedies of the  
 20       bondholders that are reasonable and proper and not in violation of law, including  
 21       covenants setting forth the duties of the authority in relation to the acquisition or  
 22       sale of property and the construction, improvement, maintenance, repair, and  
 23       insurance of the project or projects in connection with which the bonds are  
 24       authorized; the rates or rental charges; and the custody, safeguarding, and  
 25       application of all moneys;

26       (3) Restrict the individual right of action by bondholders; and

27       (4) Contain any other provisions as the authority may deem reasonable and proper

1 for the security of the bondholders.

2 It is lawful for any bank or trust company which may act as depository of the proceeds  
 3 of bonds or of revenues to furnish indemnifying bonds or pledge securities as may be  
 4 required by the rights and remedies of the bondholders and of the trustee. All expenses  
 5 incurred in carrying out the provisions of the trust indenture or proceedings may be  
 6 treated as a part of the cost of the project or projects.

7 SECTION 8. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 8 READ AS FOLLOWS:

9 Any holder of bonds issued under Sections 1 to 14 of this Act and the trustee under any  
 10 trust indenture, except to the extent that rights may be restricted by the trust indenture,  
 11 may, either at law or in equity, by suit, action, mandamus, or other proceedings,  
 12 protect and enforce any and all rights arising under the laws of this Commonwealth, a  
 13 trust indenture, or a proceeding authorizing the issuance of bonds; and may enforce  
 14 and compel the performance of duties required under Sections 1 to 14 of this Act,  
 15 including the fixing, charging, and collecting of rents.

16 SECTION 9. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 17 READ AS FOLLOWS:

18 Bonds issued by the authority are securities in which all public officers and public  
 19 bodies, agencies, and instrumentalities of this Commonwealth and its political  
 20 subdivisions, insurance companies, trust companies, bank associations, investment  
 21 companies, executors, administrators, trustees and other fiduciaries, and other persons  
 22 who are authorized to invest in bonds or similar obligations may invest funds. The  
 23 bonds are securities which may be deposited with any state or municipal officer or any  
 24 agency or political subdivision of the Commonwealth for any purpose for which the  
 25 deposit of bonds or other obligations of the Commonwealth is authorized by law.

26 SECTION 10. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 27 READ AS FOLLOWS:

1 (1) The authority may provide for the issuance of revenue refunding bonds for the  
 2 purpose of refunding any outstanding bonds that have been issued under  
 3 Sections 1 to 14 of this Act, including the payment of any redemption premium  
 4 thereon and any interest accrued to the date of redemption of the bonds, and, if  
 5 the authority determines, for the purpose of constructing improvements,  
 6 extensions, or enlargements of the project or projects in connection with which  
 7 the bonds to be refunded have been issued. The authority may also provide for the  
 8 issuance of its revenue bonds for the combined purpose of:

9 (a) Refunding any outstanding bonds that are issued under Sections 1 to 14 of  
 10 this Act, including the payment of any redemption premium and any  
 11 interest accrued to the date of redemption of the bonds; and

12 (b) Paying any part of the cost of any additional project or projects.

13 (2) The issuance of such bonds, maturities and other details, for rights of the  
 14 bondholders, and the rights, duties, and obligations of the authority, shall be  
 15 governed by Sections 1 to 14 of this Act where applicable.

16 SECTION 11. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 17 READ AS FOLLOWS:

18 All moneys received under Sections 1 to 14 of this Act, either from the sale of bonds or  
 19 as revenues, shall be held and applied solely as provided in Sections 1 to 14 of this Act.  
 20 The proceedings or the trust indenture shall provide that any officer with whom, or any  
 21 bank or trust company with which, these moneys are deposited shall act as trustee of  
 22 the moneys and shall hold and apply them for the purposes stated, subject to any  
 23 regulation that Sections 1 to 14 of this Act, proceedings thereunder, or the trust  
 24 indenture may provide.

25 SECTION 12. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
 26 READ AS FOLLOWS:

27 The property of the authority and its income and operation shall be exempt from all

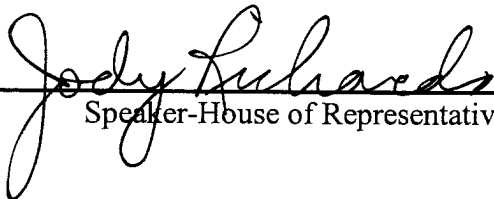
1 taxation by this state or any of its political subdivisions. All bonds and notes of the  
2 authority, the interest thereon, and their transfer shall be exempt from all taxation by  
3 this state or any of its political subdivisions, except for estate, gift, and inheritance  
4 taxes, notwithstanding that interest on bonds or notes of the authority may be or  
5 become subject to federal income taxation.

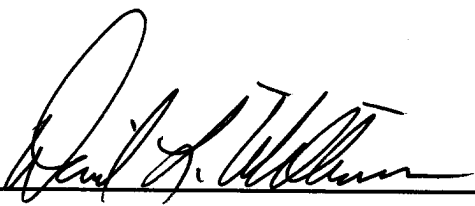
6 SECTION 13. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
7 READ AS FOLLOWS:

8 Nothing in KRS 45A.045 shall be construed to apply to any project undertaken by the  
9 authority pursuant to Sections 1 to 14 of this Act.

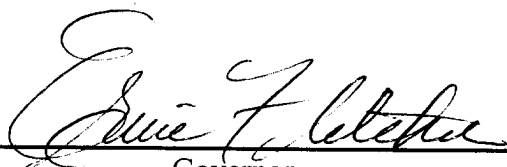
10 SECTION 14. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO  
11 READ AS FOLLOWS:

12 By January 1 each year, the authority shall make an annual report of its activities for  
13 the preceding fiscal year to the Office of the State Budget Director and to the Interim  
14 Joint Committee on Appropriations and Revenue. Each such report shall set forth a  
15 complete operating and financial statement covering its operations during the year.  
16 The authority shall provide for an audit of its books and accounts to be made within  
17 ninety (90) days after the close of each fiscal year by certified public accountants and  
18 the cost thereof may be treated as a part of the cost of construction of the project.  
19 Audits under this section shall be public records within the meaning of KRS 61.870 to  
20 61.884.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of the Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_